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HOUSE BILL 1901

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State of Washington

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By Representatives Chopp, Dickerson, Thibaudeau, Tokuda, Wolfe, Cody, Veloria, Mason, Appelwick, Jacobsen, R. Fisher, Regala and Costa

Read first time 02/14/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to expanding the jurisdiction of the human rights  
2 commission regarding gender identity; amending RCW 49.60.010,  
3 49.60.020, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180,  
4 49.60.190, 49.60.200, 49.60.215, 49.60.224, and 48.30.300; and  
5 reenacting and amending RCW 49.60.030, 49.60.040, 49.60.120, 49.60.222,  
6 49.60.223, and 49.60.225.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 49.60.010 and 1993 c 510 s 1 are each amended to read  
9 as follows:

10 This chapter shall be known as the "law against discrimination".  
11 It is an exercise of the police power of the state for the protection  
12 of the public welfare, health, and peace of the people of this state,  
13 and in fulfillment of the provisions of the Constitution of this state  
14 concerning civil rights. The legislature hereby finds and declares  
15 that practices of discrimination against any of its inhabitants because  
16 of race, creed, color, national origin, sex, marital status, gender  
17 identity, age, or the presence of any sensory, mental, or physical  
18 disability or the use of a trained guide dog or service dog by a  
19 disabled person are a matter of state concern, that such discrimination

1 threatens not only the rights and proper privileges of its inhabitants  
2 but menaces the institutions and foundation of a free democratic state.  
3 A state agency is herein created with powers with respect to  
4 elimination and prevention of discrimination in employment, in credit  
5 and insurance transactions, in places of public resort, accommodation,  
6 or amusement, and in real property transactions because of race, creed,  
7 color, national origin, sex, marital status, gender identity, age, or  
8 the presence of any sensory, mental, or physical disability or the use  
9 of a trained guide dog or service dog by a disabled person; and the  
10 commission established hereunder is hereby given general jurisdiction  
11 and power for such purposes.

12 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read  
13 as follows:

14 The provisions of this chapter shall be construed liberally for the  
15 accomplishment of the purposes thereof. Nothing contained in this  
16 chapter shall be deemed to repeal any of the provisions of any other  
17 law of this state relating to discrimination because of race, color,  
18 creed, national origin, sex, marital status, gender identity, age, or  
19 the presence of any sensory, mental, or physical disability, other than  
20 a law which purports to require or permit doing any act which is an  
21 unfair practice under this chapter. Nor shall anything herein  
22 contained be construed to deny the right to any person to institute any  
23 action or pursue any civil or criminal remedy based upon an alleged  
24 violation of his or her civil rights. This chapter shall not be  
25 construed to endorse any specific belief, practice, behavior, or  
26 orientation.

27 **Sec. 3.** RCW 49.60.030 and 1993 c 510 s 3 and 1993 c 69 s 1 are  
28 each reenacted and amended to read as follows:

29 (1) The right to be free from discrimination because of race,  
30 creed, color, national origin, sex, gender identity, or the presence of  
31 any sensory, mental, or physical disability or the use of a trained  
32 guide dog or service dog by a disabled person is recognized as and  
33 declared to be a civil right. This right shall include, but not be  
34 limited to:

35 (a) The right to obtain and hold employment without discrimination;

1 (b) The right to the full enjoyment of any of the accommodations,  
2 advantages, facilities, or privileges of any place of public resort,  
3 accommodation, assemblage, or amusement;

4 (c) The right to engage in real estate transactions without  
5 discrimination, including discrimination against families with  
6 children;

7 (d) The right to engage in credit transactions without  
8 discrimination;

9 (e) The right to engage in insurance transactions or transactions  
10 with health maintenance organizations without discrimination:  
11 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,  
12 48.44.220, or 48.46.370 does not constitute an unfair practice for the  
13 purposes of this subparagraph; and

14 (f) The right to engage in commerce free from any discriminatory  
15 boycotts or blacklists. Discriminatory boycotts or blacklists for  
16 purposes of this section shall be defined as the formation or execution  
17 of any express or implied agreement, understanding, policy or  
18 contractual arrangement for economic benefit between any persons which  
19 is not specifically authorized by the laws of the United States and  
20 which is required or imposed, either directly or indirectly, overtly or  
21 covertly, by a foreign government or foreign person in order to  
22 restrict, condition, prohibit, or interfere with or in order to exclude  
23 any person or persons from any business relationship on the basis of  
24 race, color, creed, religion, sex, gender identity, the presence of any  
25 sensory, mental, or physical disability, or the use of a trained guide  
26 dog or service dog by a disabled person, or national origin or lawful  
27 business relationship: PROVIDED HOWEVER, That nothing herein contained  
28 shall prohibit the use of boycotts as authorized by law pertaining to  
29 labor disputes and unfair labor practices.

30 (2) Any person deeming himself or herself injured by any act in  
31 violation of this chapter shall have a civil action in a court of  
32 competent jurisdiction to enjoin further violations, or to recover the  
33 actual damages sustained by the person, or both, together with the cost  
34 of suit including reasonable attorneys' fees or any other appropriate  
35 remedy authorized by this chapter or the United States Civil Rights Act  
36 of 1964 as amended, or the federal fair housing amendments act of 1988  
37 (42 U.S.C. Sec. 3601 et seq.)~~((and))~~.

38 (3) Except for any unfair practice committed by an employer against  
39 an employee or a prospective employee, or any unfair practice in a real

1 estate transaction which is the basis for relief specified in the  
2 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any  
3 unfair practice prohibited by this chapter which is committed in the  
4 course of trade or commerce as defined in the Consumer Protection Act,  
5 chapter 19.86 RCW, is, for the purpose of applying that chapter, a  
6 matter affecting the public interest, is not reasonable in relation to  
7 the development and preservation of business, and is an unfair or  
8 deceptive act in trade or commerce.

9       **Sec. 4.** RCW 49.60.040 and 1993 c 510 s 4 and 1993 c 69 s 3 are  
10 each reenacted and amended to read as follows:

11       As used in this chapter:

12       (1) "Person" includes one or more individuals, partnerships,  
13 associations, organizations, corporations, cooperatives, legal  
14 representatives, trustees and receivers, or any group of persons; it  
15 includes any owner, lessee, proprietor, manager, agent, or employee,  
16 whether one or more natural persons; and further includes any political  
17 or civil subdivisions of the state and any agency or instrumentality of  
18 the state or of any political or civil subdivision thereof;

19       (2) "Commission" means the Washington state human rights  
20 commission;

21       (3) "Employer" includes any person acting in the interest of an  
22 employer, directly or indirectly, who employs eight or more persons,  
23 and does not include any religious or sectarian organization not  
24 organized for private profit;

25       (4) "Employee" does not include any individual employed by his or  
26 her parents, spouse, or child, or in the domestic service of any  
27 person;

28       (5) "Gender identity" means a person's various individual  
29 attributes or manifestations of such attributes as they are understood  
30 to be masculine and/or feminine;

31       (6) "Labor organization" includes any organization which exists for  
32 the purpose, in whole or in part, of dealing with employers concerning  
33 grievances or terms or conditions of employment, or for other mutual  
34 aid or protection in connection with employment;

35       (~~(6)~~) (7) "Employment agency" includes any person undertaking  
36 with or without compensation to recruit, procure, refer, or place  
37 employees for an employer;

1       (~~(7)~~) (8) "Marital status" means the legal status of being  
2 married, single, separated, divorced, or widowed;  
3       (~~(8)~~) (9) "National origin" includes "ancestry";  
4       (~~(9)~~) (10) "Full enjoyment of" includes the right to purchase any  
5 service, commodity, or article of personal property offered or sold on,  
6 or by, any establishment to the public, and the admission of any person  
7 to accommodations, advantages, facilities, or privileges of any place  
8 of public resort, accommodation, assemblage, or amusement, without acts  
9 directly or indirectly causing persons of any particular race, creed,  
10 color, sex, gender identity, national origin, or with any sensory,  
11 mental, or physical disability, or the use of a trained guide dog or  
12 service dog by a disabled person, to be treated as not welcome,  
13 accepted, desired, or solicited;  
14       (~~(10)~~) (11) "Any place of public resort, accommodation,  
15 assemblage, or amusement" includes, but is not limited to, any place,  
16 licensed or unlicensed, kept for gain, hire, or reward, or where  
17 charges are made for admission, service, occupancy, or use of any  
18 property or facilities, whether conducted for the entertainment,  
19 housing, or lodging of transient guests, or for the benefit, use, or  
20 accommodation of those seeking health, recreation, or rest, or for the  
21 burial or other disposition of human remains, or for the sale of goods,  
22 merchandise, services, or personal property, or for the rendering of  
23 personal services, or for public conveyance or transportation on land,  
24 water, or in the air, including the stations and terminals thereof and  
25 the garaging of vehicles, or where food or beverages of any kind are  
26 sold for consumption on the premises, or where public amusement,  
27 entertainment, sports, or recreation of any kind is offered with or  
28 without charge, or where medical service or care is made available, or  
29 where the public gathers, congregates, or assembles for amusement,  
30 recreation, or public purposes, or public halls, public elevators, and  
31 public washrooms of buildings and structures occupied by two or more  
32 tenants, or by the owner and one or more tenants, or any public library  
33 or educational institution, or schools of special instruction, or  
34 nursery schools, or day care centers or children's camps: PROVIDED,  
35 That nothing contained in this definition shall be construed to include  
36 or apply to any institute, bona fide club, or place of accommodation,  
37 which is by its nature distinctly private, including fraternal  
38 organizations, though where public use is permitted that use shall be  
39 covered by this chapter; nor shall anything contained in this

1 definition apply to any educational facility, columbarium, crematory,  
2 mausoleum, or cemetery operated or maintained by a bona fide religious  
3 or sectarian institution;

4 (~~(11)~~) (12) "Real property" includes buildings, structures,  
5 dwellings, real estate, lands, tenements, leaseholds, interests in real  
6 estate cooperatives, condominiums, and hereditaments, corporeal and  
7 incorporeal, or any interest therein;

8 (~~(12)~~) (13) "Real estate transaction" includes the sale,  
9 appraisal, brokering, exchange, purchase, rental, or lease of real  
10 property, transacting or applying for a real estate loan, or the  
11 provision of brokerage services;

12 (~~(13)~~) (14) "Dwelling" means any building, structure, or portion  
13 thereof that is occupied as, or designed or intended for occupancy as,  
14 a residence by one or more families, and any vacant land that is  
15 offered for sale or lease for the construction or location thereon of  
16 any such building, structure, or portion thereof;

17 (~~(14)~~) (15) "Sex" means gender;

18 (~~(15)~~) (16) "Aggrieved person" means any person who: (a) Claims  
19 to have been injured by an unfair practice in a real estate  
20 transaction; or (b) believes that he or she will be injured by an  
21 unfair practice in a real estate transaction that is about to occur;

22 (~~(16)~~) (17) "Complainant" means the person who files a complaint  
23 in a real estate transaction;

24 (~~(17)~~) (18) "Credit transaction" includes any open or closed end  
25 credit transaction, whether in the nature of a loan, retail installment  
26 transaction, credit card issue or charge, or otherwise, and whether for  
27 personal or for business purposes, in which a service, finance, or  
28 interest charge is imposed, or which provides for repayment in  
29 scheduled payments, when such credit is extended in the regular course  
30 of any trade or commerce, including but not limited to transactions by  
31 banks, savings and loan associations or other financial lending  
32 institutions of whatever nature, stock brokers, or by a merchant or  
33 mercantile establishment which as part of its ordinary business permits  
34 or provides that payment for purchases of property or service therefrom  
35 may be deferred;

36 (~~(18)~~) (19) "Families with children status" means when one or  
37 more individuals who have not attained the age of eighteen years is  
38 domiciled with a parent or another person having legal custody of such  
39 individual or individuals, or with the designee of such parent or other

1 person having such legal custody, with the written permission of such  
2 parent or other person. Families with children status also applies to  
3 any person who is pregnant or is in the process of securing legal  
4 custody or guardianship of any individual who has not attained the age  
5 of eighteen years.

6 **Sec. 5.** RCW 49.60.120 and 1993 c 510 s 6 and 1993 c 69 s 4 are  
7 each reenacted and amended to read as follows:

8 The commission shall have the functions, powers, and duties:

9 (1) To appoint an executive director and chief examiner, and such  
10 investigators, examiners, clerks, and other employees and agents as it  
11 may deem necessary, fix their compensation within the limitations  
12 provided by law, and prescribe their duties.

13 (2) To obtain upon request and utilize the services of all  
14 governmental departments and agencies.

15 (3) To adopt, promulgate, amend, and rescind suitable rules and  
16 regulations to carry out the provisions of this chapter, and the  
17 policies and practices of the commission in connection therewith.

18 (4) To receive, impartially investigate, and pass upon complaints  
19 alleging unfair practices as defined in this chapter.

20 (5) To issue such publications and such results of investigations  
21 and research as in its judgment will tend to promote good will and  
22 minimize or eliminate discrimination because of sex, race, creed,  
23 color, national origin, marital status, gender identity, age, or the  
24 presence of any sensory, mental, or physical disability, or the use of  
25 a trained guide dog or service dog by a disabled person.

26 (6) To make such technical studies as are appropriate to effectuate  
27 the purposes and policies of this chapter and to publish and distribute  
28 the reports of such studies.

29 (7) To cooperate and act jointly or by division of labor with the  
30 United States or other states, with other Washington state agencies,  
31 commissions, and other government entities, and with political  
32 subdivisions of the state of Washington and their respective human  
33 rights agencies to carry out the purposes of this chapter. However,  
34 the powers which may be exercised by the commission under this  
35 subsection permit investigations and complaint dispositions only if the  
36 investigations are designed to reveal, or the complaint deals only  
37 with, allegations which, if proven, would constitute unfair practices

1 under this chapter. The commission may perform such services for these  
2 agencies and be reimbursed therefor.

3 (8) To foster good relations between minority and majority  
4 population groups of the state through seminars, conferences,  
5 educational programs, and other intergroup relations activities.

6 **Sec. 6.** RCW 49.60.130 and 1993 c 510 s 7 are each amended to read  
7 as follows:

8 The commission has power to create such advisory agencies and  
9 conciliation councils, local, regional, or state-wide, as in its  
10 judgment will aid in effectuating the purposes of this chapter. The  
11 commission may empower them to study the problems of discrimination in  
12 all or specific fields of human relationships or in specific instances  
13 of discrimination because of sex, race, creed, color, national origin,  
14 marital status, gender identity, age, or the presence of any sensory,  
15 mental, or physical disability or the use of a trained guide dog or  
16 service dog by a disabled person; to foster through community effort or  
17 otherwise good will, cooperation, and conciliation among the groups and  
18 elements of the population of the state, and to make recommendations to  
19 the commission for the development of policies and procedures in  
20 general and in specific instances, and for programs of formal and  
21 informal education which the commission may recommend to the  
22 appropriate state agency.

23 Such advisory agencies and conciliation councils shall be composed  
24 of representative citizens, serving without pay, but with reimbursement  
25 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as  
26 now existing or hereafter amended, and the commission may make  
27 provision for technical and clerical assistance to such agencies and  
28 councils and for the expenses of such assistance. The commission may  
29 use organizations specifically experienced in dealing with questions of  
30 discrimination.

31 **Sec. 7.** RCW 49.60.175 and 1993 c 510 s 9 are each amended to read  
32 as follows:

33 It shall be an unfair practice to use the sex, race, creed, color,  
34 national origin, marital status, gender identity, or the presence of  
35 any sensory, mental, or physical disability of any person, or the use  
36 of a trained guide dog or service dog by a disabled person, concerning

1 an application for credit in any credit transaction to determine the  
2 credit worthiness of an applicant.

3 **Sec. 8.** RCW 49.60.176 and 1993 c 510 s 10 are each amended to read  
4 as follows:

5 (1) It is an unfair practice for any person whether acting for  
6 himself, herself, or another in connection with any credit transaction  
7 because of race, creed, color, national origin, sex, marital status,  
8 gender identity, or the presence of any sensory, mental, or physical  
9 disability or the use of a trained guide dog or service dog by a  
10 disabled person:

11 (a) To deny credit to any person;

12 (b) To increase the charges or fees for or collateral required to  
13 secure any credit extended to any person;

14 (c) To restrict the amount or use of credit extended or to impose  
15 different terms or conditions with respect to the credit extended to  
16 any person or any item or service related thereto;

17 (d) To attempt to do any of the unfair practices defined in this  
18 section.

19 (2) Nothing in this section shall prohibit any party to a credit  
20 transaction from considering the credit history of any individual  
21 applicant.

22 (3) Further, nothing in this section shall prohibit any party to a  
23 credit transaction from considering the application of the community  
24 property law to the individual case or from taking reasonable action  
25 thereon.

26 **Sec. 9.** RCW 49.60.178 and 1993 c 510 s 11 are each amended to read  
27 as follows:

28 It is an unfair practice for any person whether acting for himself,  
29 herself, or another in connection with an insurance transaction or  
30 transaction with a health maintenance organization to cancel or fail or  
31 refuse to issue or renew insurance or a health maintenance agreement to  
32 any person because of sex, marital status, gender identity, race,  
33 creed, color, national origin, or the presence of any sensory, mental,  
34 or physical disability or the use of a trained guide dog or service dog  
35 by a disabled person: PROVIDED, That a practice which is not unlawful  
36 under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an  
37 unfair practice for the purposes of this section. For the purposes of

1 this section, "insurance transaction" is defined in RCW 48.01.060,  
2 health maintenance agreement is defined in RCW 48.46.020, and "health  
3 maintenance organization" is defined in RCW 48.46.020.

4 The fact that such unfair practice may also be a violation of  
5 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an  
6 action brought under this section.

7 The insurance commissioner, under RCW 48.30.300, and the human  
8 rights commission, under chapter 49.60 RCW, shall have concurrent  
9 jurisdiction under this section and shall enter into a working  
10 agreement as to procedure to be followed in complaints under this  
11 section.

12 **Sec. 10.** RCW 49.60.180 and 1993 c 510 s 12 are each amended to  
13 read as follows:

14 (1) It is an unfair practice for any employer:

15 ~~((+1))~~ (a) To refuse to hire any person because of age, sex,  
16 marital status, gender identity, race, creed, color, national origin,  
17 or the presence of any sensory, mental, or physical disability or the  
18 use of a trained guide dog or service dog by a disabled person, unless  
19 based upon a bona fide occupational qualification: PROVIDED, That the  
20 prohibition against discrimination because of such disability shall not  
21 apply if the particular disability prevents the proper performance of  
22 the particular worker involved.

23 ~~((+2))~~ (b) To discharge or bar any person from employment because  
24 of age, sex, marital status, gender identity, race, creed, color,  
25 national origin, or the presence of any sensory, mental, or physical  
26 disability or the use of a trained guide dog or service dog by a  
27 disabled person.

28 ~~((+3))~~ (c) To discriminate against any person in compensation or  
29 in other terms or conditions of employment because of age, sex, marital  
30 status, gender identity, race, creed, color, national origin, or the  
31 presence of any sensory, mental, or physical disability or the use of  
32 a trained guide dog or service dog by a disabled person: PROVIDED,  
33 That it shall not be an unfair practice for an employer to segregate  
34 washrooms or locker facilities on the basis of sex, or to base other  
35 terms and conditions of employment on the sex of employees where the  
36 commission by regulation or ruling in a particular instance has found  
37 the employment practice to be appropriate for the practical realization  
38 of equality of opportunity between the sexes.

1       (~~(4)~~) (d) To print, or circulate, or cause to be printed or  
2       circulated any statement, advertisement, or publication, or to use any  
3       form of application for employment, or to make any inquiry in  
4       connection with prospective employment, which expresses any limitation,  
5       specification, or discrimination as to age, sex, marital status, gender  
6       identity, race, creed, color, national origin, or the presence of any  
7       sensory, mental, or physical disability or the use of a trained guide  
8       dog or service dog by a disabled person, or any intent to make any such  
9       limitation, specification, or discrimination, unless based upon a bona  
10      fide occupational qualification: PROVIDED, Nothing contained herein  
11      shall prohibit advertising in a foreign language.

12      (2) This section shall not be construed to require an employer to  
13      establish employment goals or quotas based on gender identity or on any  
14      other basis.

15      **Sec. 11.** RCW 49.60.190 and 1993 c 510 s 13 are each amended to  
16      read as follows:

17      It is an unfair practice for any labor union or labor organization:

18      (1) To deny membership and full membership rights and privileges to  
19      any person because of age, sex, marital status, gender identity, race,  
20      creed, color, national origin, or the presence of any sensory, mental,  
21      or physical disability or the use of a trained guide dog or service dog  
22      by a disabled person.

23      (2) To expel from membership any person because of age, sex,  
24      marital status, gender identity, race, creed, color, national origin,  
25      or the presence of any sensory, mental, or physical disability or the  
26      use of a trained guide dog or service dog by a disabled person.

27      (3) To discriminate against any member, employer, employee, or  
28      other person to whom a duty of representation is owed because of age,  
29      sex, marital status, gender identity, race, creed, color, national  
30      origin, or the presence of any sensory, mental, or physical disability  
31      or the use of a trained guide dog or service dog by a disabled person.

32      **Sec. 12.** RCW 49.60.200 and 1993 c 510 s 14 are each amended to  
33      read as follows:

34      It is an unfair practice for any employment agency to fail or  
35      refuse to classify properly or refer for employment, or otherwise to  
36      discriminate against, an individual because of age, sex, marital  
37      status, gender identity, race, creed, color, national origin, or the

1 presence of any sensory, mental, or physical disability or the use of  
2 a trained guide dog or service dog by a disabled person, or to print or  
3 circulate, or cause to be printed or circulated any statement,  
4 advertisement, or publication, or to use any form of application for  
5 employment, or to make any inquiry in connection with prospective  
6 employment, which expresses any limitation, specification or  
7 discrimination as to age, sex, race, gender identity, creed, color,  
8 ((or)) national origin, or the presence of any sensory, mental, or  
9 physical disability or the use of a trained guide dog or service dog by  
10 a disabled person, or any intent to make any such limitation,  
11 specification, or discrimination, unless based upon a bona fide  
12 occupational qualification: PROVIDED, Nothing contained herein shall  
13 prohibit advertising in a foreign language.

14 **Sec. 13.** RCW 49.60.215 and 1993 c 510 s 16 are each amended to  
15 read as follows:

16 It shall be an unfair practice for any person or the person's agent  
17 or employee to commit an act which directly or indirectly results in  
18 any distinction, restriction, or discrimination, or the requiring of  
19 any person to pay a larger sum than the uniform rates charged other  
20 persons, or the refusing or withholding from any person the admission,  
21 patronage, custom, presence, frequenting, dwelling, staying, or lodging  
22 in any place of public resort, accommodation, assemblage, or amusement,  
23 except for conditions and limitations established by law and applicable  
24 to all persons, regardless of race, creed, color, national origin,  
25 gender identity, sex, the presence of any sensory, mental, or physical  
26 disability, or the use of a trained guide dog or service dog by a  
27 disabled person: PROVIDED, That this section shall not be construed to  
28 require structural changes, modifications, or additions to make any  
29 place accessible to a disabled person except as otherwise required by  
30 law: PROVIDED, That behavior or actions constituting a risk to  
31 property or other persons can be grounds for refusal and shall not  
32 constitute an unfair practice.

33 **Sec. 14.** RCW 49.60.222 and 1993 c 510 s 17 and 1993 c 69 s 5 are  
34 each reenacted and amended to read as follows:

35 (1) It is an unfair practice for any person, whether acting for  
36 himself, herself, or another, because of sex, marital status, gender  
37 identity, race, creed, color, national origin, families with children

1 status, the presence of any sensory, mental, or physical disability, or  
2 the use of a trained guide dog or service dog by a disabled person:

3 (a) To refuse to engage in a real estate transaction with a person;

4 (b) To discriminate against a person in the terms, conditions, or  
5 privileges of a real estate transaction or in the furnishing of  
6 facilities or services in connection therewith;

7 (c) To refuse to receive or to fail to transmit a bona fide offer  
8 to engage in a real estate transaction from a person;

9 (d) To refuse to negotiate for a real estate transaction with a  
10 person;

11 (e) To represent to a person that real property is not available  
12 for inspection, sale, rental, or lease when in fact it is so available,  
13 or to fail to bring a property listing to his or her attention, or to  
14 refuse to permit the person to inspect real property;

15 (f) To discriminate in the sale or rental, or to otherwise make  
16 unavailable or deny a dwelling to any person because of a disability of  
17 that person, or a person residing in or intending to reside in that  
18 dwelling after it is sold, rented, or made unavailable; or any person  
19 associated with the person buying or renting;

20 (g) To make, print, circulate, post, or mail, or cause to be so  
21 made or published a statement, advertisement, or sign, or to use a form  
22 of application for a real estate transaction, or to make a record or  
23 inquiry in connection with a prospective real estate transaction, which  
24 indicates, directly or indirectly, an intent to make a limitation,  
25 specification, or discrimination with respect thereto;

26 (h) To offer, solicit, accept, use, or retain a listing of real  
27 property with the understanding that a person may be discriminated  
28 against in a real estate transaction or in the furnishing of facilities  
29 or services in connection therewith;

30 (i) To expel a person from occupancy of real property;

31 (j) To discriminate in the course of negotiating, executing, or  
32 financing a real estate transaction whether by mortgage, deed of trust,  
33 contract, or other instrument imposing a lien or other security in real  
34 property, or in negotiating or executing any item or service related  
35 thereto including issuance of title insurance, mortgage insurance, loan  
36 guarantee, or other aspect of the transaction. Nothing in this section  
37 shall limit the effect of RCW 49.60.176 relating to unfair practices in  
38 credit transactions; or

1 (k) To attempt to do any of the unfair practices defined in this  
2 section.

3 (2) For the purposes of this chapter discrimination based on the  
4 presence of any sensory, mental, or physical disability or the use of  
5 a trained guide dog or service dog by a blind, deaf, or physically  
6 disabled person includes:

7 (a) A refusal to permit, at the expense of the disabled person,  
8 reasonable modifications of existing dwelling occupied or to be  
9 occupied by such person if such modifications may be necessary to  
10 afford such person full enjoyment of the dwelling, except that, in the  
11 case of a rental, the landlord may, where it is reasonable to do so,  
12 condition permission for a modification on the renter agreeing to  
13 restore the interior of the dwelling to the condition that existed  
14 before the modification, reasonable wear and tear excepted;

15 (b) To refuse to make reasonable accommodation in rules, policies,  
16 practices, or services when such accommodations may be necessary to  
17 afford a person with the presence of any sensory, mental, or physical  
18 disability and/or the use of a trained guide dog or service dog by a  
19 blind, deaf, or physically disabled person equal opportunity to use and  
20 enjoy a dwelling; or

21 (c) To fail to design and construct dwellings in conformance with  
22 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et  
23 seq.) and all other applicable laws or regulations pertaining to access  
24 by persons with any sensory, mental, or physical disability or use of  
25 a trained guide dog or service dog. Whenever the requirements of  
26 applicable laws or regulations differ, the requirements which require  
27 greater accessibility for persons with any sensory, mental, or physical  
28 disability shall govern.

29 For purposes of this subsection (2), "dwelling" means any building,  
30 structure, or portion thereof that is occupied as, or designed or  
31 intended for occupancy as, a residence by four or more families, and  
32 any vacant land that is offered for sale or lease for the construction  
33 or location thereon of any such building, structure, or portion  
34 thereof.

35 (3) Notwithstanding any other provision of this chapter, it shall  
36 not be an unfair practice or a denial of civil rights for any public or  
37 private educational institution to separate the sexes or give  
38 preference to or limit use of dormitories, residence halls, or other

1 student housing to persons of one sex or to make distinctions on the  
2 basis of marital or families with children status.

3 (4) Except pursuant to subsection (2)(a) of this section, this  
4 section shall not be construed to require structural changes,  
5 modifications, or additions to make facilities accessible to a disabled  
6 person except as otherwise required by law. Nothing in this section  
7 affects the rights, responsibilities, and remedies of landlords and  
8 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to  
9 post and enforce reasonable rules of conduct and safety for all tenants  
10 and their guests, provided that chapters 59.18 and 59.20 RCW are only  
11 affected to the extent they are inconsistent with the nondiscrimination  
12 requirements of this chapter. Nothing in this section limits the  
13 applicability of any reasonable federal, state, or local restrictions  
14 regarding the maximum number of occupants permitted to occupy a  
15 dwelling.

16 (5) Notwithstanding any other provision of this chapter, it shall  
17 not be an unfair practice for any public establishment providing for  
18 accommodations offered for the full enjoyment of transient guests as  
19 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of  
20 families with children status. Nothing in this section shall limit the  
21 effect of RCW 49.60.215 relating to unfair practices in places of  
22 public accommodation.

23 (6) Nothing in this chapter prohibiting discrimination based on  
24 families with children status applies to housing for older persons as  
25 defined by the federal fair housing amendments act of 1988, 42 U.S.C.  
26 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes  
27 requirements for housing for older persons different than the  
28 requirements in the federal fair housing amendments act of 1988, 42  
29 U.S.C. Sec 3607(b)(1) through (3).

30 **Sec. 15.** RCW 49.60.223 and 1993 c 510 s 18 and 1993 c 69 s 6 are  
31 each reenacted and amended to read as follows:

32 It is an unfair practice for any person, for profit, to induce or  
33 attempt to induce any person to sell or rent any real property by  
34 representations regarding the entry or prospective entry into the  
35 neighborhood of a person or persons of a particular race, creed, color,  
36 sex, national origin, gender identity, families with children status,  
37 or with any sensory, mental, or physical disability and/or the use of

1 a trained guide dog or service dog by a blind, deaf, or physically  
2 disabled person.

3 **Sec. 16.** RCW 49.60.224 and 1993 c 69 s 8 are each amended to read  
4 as follows:

5 (1) Every provision in a written instrument relating to real  
6 property which purports to forbid or restrict the conveyance,  
7 encumbrance, occupancy, or lease thereof to individuals of a specified  
8 race, creed, color, sex, national origin, gender identity, families  
9 with children status, or with any sensory, mental, or physical  
10 disability or the use of a trained guide dog or service dog by a blind,  
11 deaf, or physically disabled person, and every condition, restriction,  
12 or prohibition, including a right of entry or possibility of reverter,  
13 which directly or indirectly limits the use or occupancy of real  
14 property on the basis of race, creed, color, sex, national origin,  
15 gender identity, families with children status, or the presence of any  
16 sensory, mental, or physical disability or the use of a trained guide  
17 dog or service dog by a blind, deaf, or physically disabled person is  
18 void.

19 (2) It is an unfair practice to insert in a written instrument  
20 relating to real property a provision that is void under this section  
21 or to honor or attempt to honor such a provision in the chain of title.

22 **Sec. 17.** RCW 49.60.225 and 1993 c 510 s 20 and 1993 c 69 s 9 are  
23 each reenacted and amended to read as follows:

24 (1) When a reasonable cause determination has been made under RCW  
25 49.60.240 that an unfair practice in a real estate transaction has been  
26 committed and a finding has been made that the respondent has engaged  
27 in any unfair practice under RCW 49.60.250, the administrative law  
28 judge shall promptly issue an order for such relief suffered by the  
29 aggrieved person as may be appropriate, which may include actual  
30 damages as provided by Title VIII of the United States civil rights act  
31 of 1964, as amended, and the federal fair housing amendments act of  
32 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable  
33 relief. Such order may, to further the public interest, assess a civil  
34 penalty against the respondent:

35 (a) In an amount up to ten thousand dollars if the respondent has  
36 not been determined to have committed any prior unfair practice in a  
37 real estate transaction;

1 (b) In an amount up to twenty-five thousand dollars if the  
2 respondent has been determined to have committed one other unfair  
3 practice in a real estate transaction during the five-year period  
4 ending on the date of the filing of this charge; or

5 (c) In an amount up to fifty thousand dollars if the respondent has  
6 been determined to have committed two or more unfair practices in a  
7 real estate transaction during the seven-year period ending on the date  
8 of the filing of this charge, for loss of the right secured by RCW  
9 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as  
10 now or hereafter amended, to be free from discrimination in real  
11 property transactions because of sex, marital status, race, creed,  
12 color, national origin, gender identity, families with children status,  
13 or the presence of any sensory, mental, or physical disability or the  
14 use of a trained guide dog or service dog by a blind, deaf, or  
15 physically disabled person. Enforcement of the order and appeal  
16 therefrom by the complainant or respondent may be made as provided in  
17 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice  
18 in a real estate transaction that is the object of the charge are  
19 determined to have been committed by the same natural person who has  
20 been previously determined to have committed acts constituting an  
21 unfair practice in a real estate transaction, then the civil penalty of  
22 up to fifty thousand dollars may be imposed without regard to the  
23 period of time within which any subsequent unfair practice in a real  
24 estate transaction occurred. All civil penalties assessed under this  
25 section shall be paid into the state treasury and credited to the  
26 general fund.

27 (2) Such order shall not affect any contract, sale, conveyance,  
28 encumbrance, or lease consummated before the issuance of an order that  
29 involves a bona fide purchaser, encumbrancer, or tenant who does not  
30 have actual notice of the charge filed under this chapter.

31 (3) Notwithstanding any other provision of this chapter, persons  
32 awarded damages under this section may not receive additional damages  
33 pursuant to RCW 49.60.250.

34 **Sec. 18.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to  
35 read as follows:

36 Notwithstanding any provision contained in Title 48 RCW to the  
37 contrary:

1 (1) No person or entity engaged in the business of insurance in  
2 this state shall refuse to issue any contract of insurance or cancel or  
3 decline to renew such contract because of the sex ((~~or~~)), marital  
4 status, or gender identity as defined in RCW 49.60.040, or the presence  
5 of any sensory, mental, or physical handicap of the insured or  
6 prospective insured. The amount of benefits payable, or any term,  
7 rate, condition, or type of coverage shall not be restricted, modified,  
8 excluded, increased or reduced on the basis of the sex ((~~or~~)), marital  
9 status, or gender identity, or be restricted, modified, excluded or  
10 reduced on the basis of the presence of any sensory, mental, or  
11 physical handicap of the insured or prospective insured. Subject to  
12 the provisions of subsection (2) of this section these provisions shall  
13 not prohibit fair discrimination on the basis of sex, or marital  
14 status, or the presence of any sensory, mental, or physical handicap  
15 when bona fide statistical differences in risk or exposure have been  
16 substantiated.

17 (2) With respect to disability policies issued or renewed on and  
18 after July 1, 1994, that provide coverage against loss arising from  
19 medical, surgical, hospital, or emergency care services:

20 (a) Policies shall guarantee continuity of coverage. Such  
21 provision, which shall be included in every policy, shall provide that:

22 (i) The policy may be canceled or nonrenewed without the prior  
23 written approval of the commissioner only for nonpayment of premium or  
24 as permitted under RCW 48.18.090; and

25 (ii) The policy may be canceled or nonrenewed because of a change  
26 in the physical or mental condition or health of a covered person only  
27 with the prior written approval of the commissioner. Such approval  
28 shall be granted only when the insurer has discharged its obligation to  
29 continue coverage for such person by obtaining coverage with another  
30 insurer, health care service contractor, or health maintenance  
31 organization, which coverage is comparable in terms of premiums and  
32 benefits as defined by rule of the commissioner.

33 (b) It is an unfair practice for a disability insurer to modify the  
34 coverage provided or rates applying to an in-force disability insurance  
35 policy and to fail to make such modification in all such issued and  
36 outstanding policies.

37 (c) Subject to rules adopted by the commissioner, it is an unfair  
38 practice for a disability insurer to:

1 (i) Cease the sale of a policy form unless it has received prior  
2 written authorization from the commissioner and has offered all  
3 policyholders covered under such discontinued policy the opportunity to  
4 purchase comparable coverage without health screening; or

5 (ii) Engage in a practice that subjects policyholders to rate  
6 increases on discontinued policy forms unless such policyholders are  
7 offered the opportunity to purchase comparable coverage without health  
8 screening.

9 The insurer may limit an offer of comparable coverage without  
10 health screening to a period not less than thirty days from the date  
11 the offer is first made.

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